

15-MJ-2027-MBB

AFFIDAVIT OF STEPHEN P. DOWD
IN SUPPORT OF A CRIMINAL COMPLAINT

I, Stephen P. Dowd, being first duly sworn, hereby depose and state:

1. I am a United States Postal Inspector, having been appointed to this position in 1995. In this position I have received training from the United States Postal Inspection Service ("USPIS") concerning prevention and investigation of threats and assaults as they pertain to U.S. Postal Service employees. Because of my training, I know it is a violation of Title 18, United States Code, Section 111, to assault, impede, intimidate or interfere with a federal employee while he is engaged in the performance of their official duties.

2. This affidavit is based upon my own investigation and information provided to me by other law enforcement officers. This affidavit is not intended to contain all the information I have learned during the course of this investigation but only that which is sufficient to support a finding of probable cause in support of an application for a criminal complaint charging Phocian Fitts ("Fitts"), DOB xx/xx/1995, of Brighton, MA, with assaulting a federal employee in violation of 18 U.S.C. § 111.

BACKGROUND

3. On December 16, 2014, a U.S. Postal employee, Derek Neff ("Neff") was assigned to carry and deliver mail on Fidelis Way in Brighton, MA. At approximately 1:30 p.m., while on Fidelis Way, in the course of his official duties, Neff observed an older female walking two small dogs approaching him from the opposite direction.

4. As Neff and the female, later identified as Sitha Saing ("Saing"), drew near to each other, Neff observed that one of the dogs was on leash and the other was off leash. The dogs began barking at Neff. Neff ask Saing to control her dogs. One of the dogs continued to move toward Neff barking, and in response Neff kicked at the dog in an effort to push it away. Neff continued on his route heading to the mailroom located at 35 Fidelis Way.

5. Fitts, who is Saing's son, from a location across the street where he had been sitting in his automobile, exited his automobile and followed Neff and confronted Neff about kicking at Saing's dogs. Neff ignored Fitts and continued walking towards his office and the mailroom located at 35 Fidelis Way.

6. Fitts and Saing followed Neff to the mailroom. A video surveillance camera positioned near the mailroom captured images of Neff, Fitts, and Saing as they arrived. I have viewed the video and observed images of Fitts and Saing speaking with Neff

outside of the mailroom. Fitts is then observed raising his right fist and throwing a punch at Neff. Neff is then observed grabbing Fitts at the waist and falling to the ground. As Neff is on the ground Fitts is observed kneeling Neff in the body. A few seconds later other residents of the complex are observed arriving at the scene and stopping the assault.

7. Boston Police and U.S. Postal Inspectors responded to the scene. Neff was observed to have sustained a swollen right eye, a cut on his pinky finger of his left hand, and bruises and lacerations to his face. Neff additionally complained of pain and bruising in his chest and was transported to Saint Elizabeth's Hospital for observation.

8. Neff was later interviewed and stated that Fitts and Saing confronted him because he kicked at one of their dogs. Neff stated that he kicked at one of the dogs because he believed that the dog was going to bite him. Neff stated that Fitts and Saing followed him back to the mailroom and continued to yell and confront him. Neff stated that at one point Fitts struck him in the face and that he, Neff, went to the ground. Neff stated that as he was on the ground, Fitts continued to punch him and kick him with his foot. Neff stated that other people at the complex stopped the assault.

9. The Boston Police and the U.S. Postal Inspectors spoke with Saing and other individuals who had observed the assault.

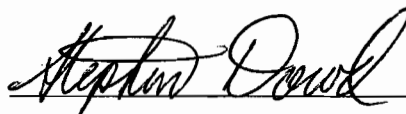
One of the witnesses stated that he observed Fitts striking Neff, Neff falling to the ground, and Fitts kicking Neff while he was on the ground. Saing was instructed to have Fitts contact the Boston Police as soon as possible to provide a statement.

10. On December 16, 2014, at approximately 3:30 p.m., Fitts voluntarily appeared at the Boston Police Department, Brighton Precinct and agreed to give a statement. Fitts was advised of his Miranda rights and the interview was audio recorded.

11. Fitts stated that he had been sitting in his automobile across the street when he observed the interaction between his mother's dogs and Neff. Fitts stated that he left his automobile, crossed the street, and confronted Neff. Fitts admitted that he and his mother followed Neff back to the complex's mailroom to continue questioning Neff about kicking the dog. Fitts stated that he believed he struck Neff 3-4 times. Fitts stated that he may have attempted to kick Neff when he was on the ground but did not believe he struck him.

CONCLUSION


12. Based upon the information set forth above, there is probable cause to believe that on the date of December 16, 2014, Phocian Fitts did assault, resist, and impede an employee of the United States Postal Service, an agency of the United States Government, while said employee was engaged in, and on account of the performance of his official duties in violation of 18 U.S.C. § 111.



STEPHEN P. DOWD

U.S Postal Inspector

SWORN AND SUBSCRIBED TO BEFORE ME ON 22 DAY OF JANUARY 2015.


MARIANNE B. BOWLER
UNITED STATES MAGISTRATE JUDGE

